

AMENDED IN ASSEMBLY JULY 8, 2004  
AMENDED IN ASSEMBLY JUNE 14, 2004  
AMENDED IN ASSEMBLY MAY 28, 2004  
AMENDED IN SENATE APRIL 14, 2004  
AMENDED IN SENATE APRIL 1, 2004

**SENATE BILL**

**No. 1307**

**Introduced by Senator Figueroa**

February 17, 2004

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An act to amend Sections 4054, 4165, and 4166 of, to amend, repeal, and add Sections ~~4043~~, 4053, 4059.5, 4081, 4100, 4105, ~~4110~~, 4160, 4163, ~~4163.6~~, 4164, 4196, 4301, 4305.5, 4331, and 4400 of, to add Sections ~~4021.5~~, 4022.5, 4034, 4084, 4085, 4086, 4126.5, 4163.5, and 4168 to, to add and repeal Sections 4053.1, 4162, and 4169 of, and to repeal and add ~~Sections 4161 and~~ *Section* 4162 of, the Business and Professions Code, relating to drugs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1307, as amended, Figueroa. Wholesalers and manufacturers of dangerous drugs and devices.

(1) Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists and wholesalers of dangerous drugs or dangerous devices by the Pharmacy Board. Existing law requires that dangerous drugs or dangerous devices be dispensed only by licensed pharmacists and only to certain persons or entities. Existing law provides certain exemptions from this requirement for manufacturers, veterinary food-animal drug retailers, and wholesalers, including those

that employ sufficient qualified supervision by a person who possesses a certificate of exemption. Existing law also requires the board to take action against a licensee who is guilty of unprofessional conduct, as defined. Existing law makes a violation of the Pharmacy Law a crime.

This bill would revise the list of persons to whom a pharmacy may furnish dangerous drugs. The bill would also revise the exemption provisions related to manufacturers, veterinary food-animal drug retailers, and wholesalers, and would change the certificate of exemption requirement to a requirement of licensure as a designated representative, as defined. The bill would require a wholesaler to keep track of ~~and report to the board~~ excessive purchases of dangerous drugs by ~~a contracting pharmacy, as defined that primarily or solely dispenses those drugs to patients of long-term care facilities,~~ and would make the clearly excessive furnishing of dangerous drugs to ~~a contracting that~~ pharmacy by a wholesaler unprofessional conduct. The bill would make other related changes.

This bill would, on and after January 1, 2007, would require a pedigree, as defined, to accompany each distribution of a dangerous drug, except that the California State Board of Pharmacy is authorized to extend the compliance date ~~to January 1, 2008,~~ under specified circumstances. It would, on and after that date, prohibit a wholesaler or pharmacy from selling, trading, or transferring a dangerous drug without a pedigree, and would prohibit a wholesaler or pharmacy from acquiring a dangerous drug without receiving a pedigree.

(2) Existing law prohibits a person from acting as a wholesaler of dangerous drugs or devices without a license.

This bill would require dangerous drugs or dangerous devices to be acquired from a person authorized by law to possess or furnish them. The bill would exempt a licensed drug manufacturer that only ships drugs of its own manufacture from the provisions governing wholesalers, except for the prohibition against furnishing dangerous drugs or devices to an unauthorized person.

(3) Existing law imposes certain licensing and registration requirements on out-of-state manufacturers and wholesalers doing business in this state, and on their principals *and agents*.

This bill would delete these requirements. ~~The bill instead would make a person located outside the state that ships, mails, or delivers dangerous drugs or dangerous devices into this state a nonresident wholesaler. The bill would require a nonresident wholesaler to meet specified licensing and reporting requirements, to comply with~~

~~directions and requests for information, to maintain records in readily retrievable form of dangerous drugs or dangerous devices sold, traded, or transferred to persons in this state, and to designate an exemptee in charge to be responsible for compliance with laws governing wholesalers.~~

(4) Existing law requires any manufacturer who sells or transfers a dangerous drug or dangerous device into this state or who receives a dangerous drug or dangerous device from a person in this state to, upon request, furnish an authorized officer of the law with all records or other documentation of that sale or transfer. Existing law makes a manufacturer who fails or refuses to comply with that request subject to a citation and a fine, an order of abatement, or both.

This bill instead would apply these provisions to a wholesaler licensed by the board. The bill would delete the provision that makes the failure or refusal to comply with a request subject to a citation and a fine, an order of abatement, or both. The bill would require a wholesaler to submit a surety bond of \$100,000, or an equivalent means of security, for ~~each site~~ *all sites* to be licensed.

(5) The bill would prohibit a county or municipality from issuing a business license for an establishment that requires a wholesaler license unless the establishment possesses a current wholesaler license issued by the board.

The bill would prohibit a person or entity from purchasing, trading, selling, or transferring a dangerous drug or device under specified circumstances, including if he or she knew, or reasonably should have known, the drug or device was adulterated or misbranded. The bill would make a violation of those provisions subject to a specified fine.

The bill would specify to whom a pharmacist may furnish dangerous drugs.

(6) The bill would make its provisions operative on January 1, 2006, except as specified.

(7) Because a violation of the requirements and prohibitions created by this bill would be a crime, the bill would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(9) *This bill would become operative only if AB 2682 is also enacted and becomes effective on or before January 1, 2005.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 4021.5 is added to the Business and~~  
2     ~~Professions Code, to read:~~

3     ~~4021.5. (a) “Contracting pharmacy” means a pharmacy that~~  
4     ~~purchases dangerous drugs or dangerous devices at preferential or~~  
5     ~~contract prices, as defined in subdivision (e) of Section 4164, from~~  
6     ~~a manufacturer or wholesaler for dispensing to patients in licensed~~  
7     ~~health facilities or community care facilities.~~

8     ~~(b) A contract pharmacy shall be separately designated on the~~  
9     ~~pharmacy license issued by the board.~~

10    ~~(c) A pharmacy operated by a health care service plan or~~  
11    ~~hospital primarily to serve its own members or patients shall not~~  
12    ~~be considered a contract pharmacy.~~

13    ~~(d) This section shall become operative on January 1, 2006.~~

14    ~~SEC. 2. Section 4022.5 is added to the Business and~~  
15    ~~Professions Code, to read:~~

16    ~~4022.5. (a) “Designated representative” means an~~  
17    ~~individual to whom a license has been granted pursuant to Section~~  
18    ~~4053.~~

19    ~~(b) “Designated representative-in-charge” means a designated~~  
20    ~~representative or a pharmacist who is the supervisor or manager of~~  
21    ~~a wholesaler or veterinary food-animal drug retailer.~~

22    ~~(c) This section shall become operative on January 1, 2006.~~

23    ~~SEC. 3. Section 4034 is added to the Business and Professions~~  
24    ~~Code, to read:~~

25    ~~4034. (a) “Pedigree” means a record, in electronic form,~~  
26    ~~containing information regarding each transaction resulting in a~~  
27    ~~change of ownership of a given dangerous drug, from sale by a~~  
28    ~~manufacturer, through acquisition and sale by a wholesaler, until~~  
29    ~~final sale to a pharmacy or other person furnishing, administering,~~  
30    ~~or dispensing the dangerous drug.~~

31    ~~(b) A pedigree shall include all of the following information:~~

(1) The source of the dangerous drug, including the name, state license number, including California license number if available, and principal address of the source.

(2) The quantity of the dangerous drug, its dosage form and strength, the date of the transaction, the sales invoice number, the container size, the number of containers, the expiration dates, and the lot numbers.

(3) The business name, address, and if appropriate, the state license number, including a California license number if available, of each owner of the dangerous drug, and the dangerous drug shipping information, including the name and address of each person certifying delivery or receipt of the dangerous drug.

(4) A certification under penalty of perjury from a responsible party of the source of the dangerous drug that the information contained in the pedigree is true and accurate.

(c) If a licensed health care service plan, hospital organization, and one or more physician organizations have exclusive contractual relationships to provide health care services, drugs distributed between these persons shall be deemed not to have changed ownership.

(d) This section shall become operative on January 1, 2007.

~~SEC. 4. Section 4043 of the Business and Professions Code is amended to read:~~

~~4043. (a) "Wholesaler" means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, or agent, including a out-of-state distributor, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board.~~

~~(b) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative before January 1, 2006, amends or repeals that date.~~

~~SEC. 5. Section 4043 is added to the Business and Professions Code, to read:~~

~~4043. (a) "Wholesaler" means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, or agent, including a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes~~

~~possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board.~~

~~(b) This section shall become operative on January 1, 2006.~~

SEC. 6. Section 4053 of the Business and Professions Code is amended to read:

4053. (a) Subdivision (a) of Section 4051 shall not apply to a veterinary food-animal drug retailer or wholesaler if the board shall find that sufficient, qualified supervision is employed by the veterinary food-animal drug retailer or wholesaler to adequately safeguard and protect the public health, nor shall Section 4051 apply to any laboratory licensed under Section 351 of Title III of the Public Health Service Act (Public Law 78-410).

(b) An individual employed by a veterinary food-animal drug retailer or wholesaler may apply for an exemption from Section 4051. In order to obtain and maintain that exemption, the individual shall meet the following requirements:

(1) He or she shall be a high school graduate or possess a general education development equivalent.

(2) He or she shall have a minimum of one year of paid work experience related to the distribution or dispensing of dangerous drugs or dangerous devices or meet all of the prerequisites to take the examination required for licensure as a pharmacist by the board.

(3) He or she shall complete a training program approved by the board that, at a minimum, addresses each of the following subjects:

(A) Knowledge and understanding of state and federal law relating to the distribution of dangerous drugs and dangerous devices.

(B) Knowledge and understanding of state and federal law relating to the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.

(D) Knowledge and understanding of the United States Pharmacopoeia standards relating to the safe storage and handling of drugs.

(E) Knowledge and understanding of prescription terminology, abbreviations, dosages and format.

(4) The board may, by regulation, require training programs to include additional material.

(5) The board may, by regulation, require training programs to include additional material.

(6) The board shall not issue a certificate of exemption until the applicant provides proof of completion of the required training to the board.

(c) The veterinary food-animal drug retailer or wholesaler shall not operate without a pharmacist or an individual in possession of a certificate of exemption on its premises.

(d) Only a pharmacist or an individual in possession of a certificate of exemption shall prepare and affix the label to veterinary food-animal drugs.

(e) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative before January 1, 2006, amends or repeals that date.

SEC. 7. Section 4053 is added to the Business and Professions Code, to read:

4053. (a) Subdivision (a) of Section 4051 shall not apply to a veterinary food-animal drug retailer or wholesaler that employs a designated representative to adequately safeguard and protect the public health, nor shall Section 4051 apply to any laboratory licensed under Section 351 of Title III of the Public Health Service Act (Public Law 78-410).

(b) An individual may apply for a designated representative license. In order to obtain and maintain that license, the individual shall meet all of the following requirements:

(1) He or she shall be a high school graduate or possess a general education development equivalent.

(2) He or she shall have a minimum of one year of paid work experience, in the past three years, related to the distribution or dispensing of dangerous drugs or dangerous devices or meet all of the prerequisites to take the examination required for licensure as a pharmacist by the board.

(3) He or she shall complete a training program approved by the board that, at a minimum, addresses each of the following subjects:

(A) Knowledge and understanding of California law and federal law relating to the distribution of dangerous drugs and dangerous devices.

(B) Knowledge and understanding of California law and federal law relating to the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.



1 (D) Knowledge and understanding of the United States  
2 Pharmacopoeia standards relating to the safe storage and handling  
3 of drugs.

4 (E) Knowledge and understanding of prescription  
5 terminology, abbreviations, dosages and format.

6 (4) The board may, by regulation, require training programs to  
7 include additional material.

8 (5) The board may not issue a license as a designated  
9 representative until the applicant provides proof of completion of  
10 the required training to the board.

11 (c) The veterinary food-animal drug retailer or wholesaler shall  
12 not operate without a pharmacist or a designated representative on  
13 its premises.

14 (d) Only a pharmacist or a designated representative shall  
15 prepare and affix the label to veterinary food-animal drugs.

16 (e) This section shall become operative on January 1, 2006.

17 SEC. 8. Section 4053.1 is added to the Business and  
18 Professions Code, to read:

19 4053.1. (a) Certificates of exemption issued or renewed  
20 pursuant to Section 4053 prior to January 1, 2005, shall remain  
21 valid until their expiration date or until January 1, 2007, whichever  
22 date is earlier.

23 (b) Individuals in possession of a current and valid certificate  
24 of exemption shall be issued a license as a designated  
25 representative if the individual satisfies the requirements of  
26 Section 4053 and pays the fee required by subdivision (i) of  
27 Section 4400.

28 (c) This section shall become inoperative and be repealed on  
29 January 1, 2007, unless a later enacted statute, that becomes  
30 operative on or before December 31, 2006, amends or repeals that  
31 date.

32 SEC. 9. Section 4054 of the Business and Professions Code  
33 is amended to read:

34 4054. Section 4051 shall not apply to a manufacturer or  
35 wholesaler that provides dialysis drugs and devices directly to  
36 patients.

37 SEC. 10. Section 4059.5 of the Business and Professions  
38 Code is amended to read:

39 4059.5. (a) Except as otherwise provided in this chapter,  
40 dangerous drugs or dangerous devices may only be ordered by an



1 entity licensed by the board and must be delivered to the licensed  
2 premises and signed for and received by the pharmacist-in-charge  
3 or, in his or her absence, another pharmacist designated by the  
4 pharmacist-in-charge. Where a licensee is permitted to operate  
5 through an exemptee, the exemptee may sign for and receive the  
6 delivery.

7 (b) A dangerous drug or dangerous device transferred, sold, or  
8 delivered to any person within this state shall be transferred, sold,  
9 or delivered only to an entity licensed by the board, to a  
10 manufacturer, or to an ultimate user or the ultimate user's agent.

11 (c) Notwithstanding subdivisions (a) and (b), deliveries to a  
12 hospital pharmacy may be made to a central receiving location  
13 within the hospital. However, the dangerous drugs or dangerous  
14 devices shall be delivered to the licensed pharmacy premises  
15 within one working day following receipt by the hospital, and the  
16 pharmacist on duty at that time shall immediately inventory the  
17 dangerous drug or dangerous devices.

18 (d) Notwithstanding any other provision of law, a dangerous  
19 drug or dangerous device may be ordered by and provided to a  
20 manufacturer, physician, dentist, podiatrist, optometrist,  
21 veterinarian, or laboratory, or a physical therapist acting within the  
22 scope of his or her license. Any person or entity receiving delivery  
23 of any dangerous drugs or dangerous devices, or a duly authorized  
24 representative of the person or entity, shall sign for the receipt of  
25 the dangerous drugs or dangerous devices.

26 (e) A dangerous drug or dangerous device shall not be  
27 transferred, sold, or delivered to any person outside this state,  
28 whether foreign or domestic, unless the transferor, seller, or  
29 deliverer does so in compliance with the laws of this state and of  
30 the United States and of the state or country to which the dangerous  
31 drugs or dangerous devices are to be transferred, sold, or delivered.  
32 Compliance with the laws of this state and the United States and  
33 of the state or country to which the dangerous drugs or dangerous  
34 devices are to be delivered shall include, but not be limited to,  
35 determining that the recipient of the dangerous drugs or dangerous  
36 devices is authorized by law to receive the dangerous drugs or  
37 dangerous devices.

38 (f) This section shall become inoperative and is repealed on  
39 January 1, 2006, unless a later enacted statute, that becomes

operative on or before December 31, 2005, amends or repeals that date.

SEC. 11. Section 4059.5 is added to the Business and Professions Code, to read:

4059.5. (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous devices may only be ordered by an entity licensed by the board and shall be delivered to the licensed premises and signed for and received by the pharmacist-in-charge or, in his or her absence, another pharmacist designated by the pharmacist-in-charge. Where a licensee is permitted to operate through a designated representative, the designated representative may sign for and receive the delivery.

(b) A dangerous drug or dangerous device transferred, sold, or delivered to any person within this state shall be transferred, sold, or delivered only to an entity licensed by the board, to a manufacturer, or to an ultimate user or the ultimate user's agent.

(c) Notwithstanding subdivisions (a) and (b), deliveries to a hospital pharmacy may be made to a central receiving location within the hospital. However, the dangerous drugs or dangerous devices shall be delivered to the licensed pharmacy premises within one working day following receipt by the hospital, and the pharmacist on duty at that time shall immediately inventory the dangerous drugs or dangerous devices.

(d) Notwithstanding any other provision of law, a dangerous drug or dangerous device may be ordered by and provided to a manufacturer, physician, dentist, podiatrist, optometrist, veterinarian, or laboratory, or physical therapist acting within the scope of his or her license. A person or entity receiving delivery of any dangerous drugs or dangerous devices, or a duly authorized representative of the person or entity, shall sign for the receipt of the dangerous drugs or dangerous devices.

(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to any person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer does so in compliance with the laws of this state and of the United States and of the state or country to which the dangerous drugs or dangerous devices are to be transferred, sold, or delivered. Compliance with the laws of this state and the United States and of the state or country to which the dangerous drugs or dangerous devices are to be delivered shall include, but not be limited to,

determining that the recipient of the dangerous drugs or dangerous devices is authorized by law to receive the dangerous drugs or dangerous devices.

(f) This section shall become operative on January 1, 2006.

SEC. 12. Section 4081 of the Business and Professions Code is amended to read:

4081. (a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge or exemptee shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly participate.

(d) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative on or before January 1, 2006, amends or repeals that date.

SEC. 13. Section 4081 is added to the Business and Professions Code, to read:

4081. (a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug

1 retailer, physician, dentist, podiatrist, veterinarian, laboratory,  
2 clinic, hospital, institution, or establishment holding a currently  
3 valid and unrevoked certificate, license, permit, registration, or  
4 exemption under Division 2 (commencing with Section 1200) of  
5 the Health and Safety Code or under Part 4 (commencing with  
6 Section 16000) of Division 9 of the Welfare and Institutions Code  
7 who maintains a stock of dangerous drugs or dangerous devices.

8 (b) The owner, officer, and partner of a pharmacy, wholesaler,  
9 or veterinary food-animal drug retailer shall be jointly responsible,  
10 with the pharmacist-in-charge or designated  
11 representative-in-charge, for maintaining the records and  
12 inventory described in this section.

13 (c) The pharmacist-in-charge or designated  
14 representative-in-charge shall not be criminally responsible for  
15 acts of the owner, officer, partner, or employee that violate this  
16 section and of which the pharmacist-in-charge or designated  
17 representative-in-charge had no knowledge, or in which he or she  
18 did not knowingly participate.

19 (d) This section shall become operative on January 1, 2006.

20 SEC. 14. Section 4084 is added to the Business and  
21 Professions Code, to read:

22 4084. (a) When a board inspector finds, or has probable  
23 cause to believe, that any dangerous drug or dangerous device is  
24 adulterated or counterfeit, the board inspector shall affix a tag or  
25 other marking to that dangerous drug or dangerous device. The  
26 board inspector shall give notice to the person that the dangerous  
27 drug or dangerous device bearing the tag or marking has been  
28 embargoed.

29 (b) When a board inspector has found that an embargoed  
30 dangerous drug or dangerous device is not adulterated or  
31 counterfeit, a board inspector shall remove the tag or other  
32 marking.

33 (c) A board inspector may secure a sample or specimen of a  
34 dangerous drug or dangerous device. If the board inspector obtains  
35 a sample prior to leaving the premises, the board inspector shall  
36 leave a receipt describing the sample.

37 (d) For the purposes of this article “counterfeit” shall have the  
38 meaning defined in Section 109905 of the Health and Safety Code.

39 (e) For the purposes of this article “adulterated” shall have the  
40 meaning defined in Article 2 (commencing with Section 111250)

1 of Chapter 6 of Part 5 of Division 104 of the Health and Safety  
2 Code.

3 SEC. 15. Section 4085 is added to the Business and  
4 Professions Code, to read:

5 4085. (a) It is unlawful for any person to remove, sell, or  
6 dispose of an embargoed dangerous drug or dangerous device  
7 without permission of the board.

8 (b) When a board inspector has reasonable cause to believe,  
9 that the embargo will be violated, a board inspector may remove  
10 the embargoed dangerous drug or dangerous device from the  
11 premises.

12 SEC. 16. Section 4086 is added to the Business and  
13 Professions Code, to read:

14 4086. (a) If a dangerous drug or dangerous device is alleged  
15 to be adulterated or counterfeit, the board shall commence  
16 proceedings in the superior court in whose jurisdiction the  
17 dangerous drug or dangerous device is located, for condemnation  
18 of the dangerous drug or dangerous device.

19 (b) If the court finds that an embargoed dangerous drug or  
20 dangerous device is adulterated or counterfeit, the dangerous drug  
21 or dangerous device shall, after entry of the judgment, be  
22 destroyed at the expense of the claimant or owner, under the  
23 supervision of the board. All court costs and fees and all reasonable  
24 costs incurred by the board in investigating and prosecuting the  
25 action, including, but not limited to, the costs of storage and  
26 testing, shall be paid by the claimant or owner of the dangerous  
27 drug or dangerous device.

28 (c) A superior court of this state may condemn any dangerous  
29 drug or dangerous device pursuant to this article. In the absence of  
30 an order, the dangerous drug or dangerous device may be  
31 destroyed under the supervision of the board who has the written  
32 consent of the owner, his or her attorney, or authorized  
33 representative. If the board cannot ascertain ownership of the  
34 dangerous drug or dangerous device within 30 days of establishing  
35 an embargo, the board may destroy the dangerous drug or  
36 dangerous device.

37 SEC. 17. Section 4100 of the Business and Professions Code  
38 is amended to read:

39 4100. (a) Within 30 days after changing his or her address of  
40 record with the board or after changing his or her name according

1 to law, every pharmacist, intern pharmacist, technician, or  
2 exemptee shall notify the executive officer of the board of the  
3 change of address or change of name.

4 (b) This section shall become inoperative and is repealed on  
5 January 1, 2006, unless a later enacted statute, that becomes  
6 operative on or before January 1, 2006, amends or repeals that  
7 date.

8 SEC. 18. Section 4100 is added to the Business and  
9 Professions Code, to read:

10 4100. (a) Within 30 days after changing his or her address of  
11 record with the board or after changing his or her name according  
12 to law, a pharmacist, intern pharmacist, technician, or designated  
13 representative shall notify the executive officer of the board of the  
14 change of address or change of name.

15 (b) This section shall become operative on January 1, 2006.

16 SEC. 19. Section 4105 of the Business and Professions Code  
17 is amended to read:

18 4105. (a) All records or other documentation of the  
19 acquisition and disposition of dangerous drugs and dangerous  
20 devices by any entity licensed by the board shall be retained on the  
21 licensed premises in a readily retrievable form.

22 (b) The licensee may remove the original records or  
23 documentation from the licensed premises on a temporary basis  
24 for license-related purposes. However, a duplicate set of those  
25 records or other documentation shall be retained on the licensed  
26 premises.

27 (c) The records required by this section shall be retained on the  
28 licensed premises for a period of three years from the date of  
29 making.

30 (d) Any records that are maintained electronically shall be  
31 maintained so that the pharmacist-in-charge, the pharmacist on  
32 duty if the pharmacist-in-charge is not on duty, or, in the case of  
33 a veterinary food-animal drug retailer or wholesaler, the  
34 exemptee, shall, at all times during which the licensed premises are  
35 open for business, be able to produce a hard copy and electronic  
36 copy of all records of acquisition or disposition or other drug or  
37 dispensing-related records maintained electronically.

38 (e) (1) Notwithstanding subdivisions (a), (b), and (c), the  
39 board, may upon written request, grant to a licensee a waiver of the



1 requirements that the records described in subdivisions (a), (b),  
2 and (c) be kept on the licensed premises.

3 (2) A waiver granted pursuant to this subdivision shall not  
4 affect the board's authority under this section or any other  
5 provision of this chapter.

6 (f) This section shall become inoperative and is repealed on  
7 January 1, 2006, unless a later enacted statute, that becomes  
8 operative on or before January 1, 2006, amends or repeals that  
9 date.

10 SEC. 20. Section 4105 is added to the Business and  
11 Professions Code, to read:

12 4105. (a) All records or other documentation of the  
13 acquisition and disposition of dangerous drugs and dangerous  
14 devices by any entity licensed by the board shall be retained on the  
15 licensed premises in a readily retrievable form.

16 (b) The licensee may remove the original records or  
17 documentation from the licensed premises on a temporary basis  
18 for license-related purposes. However, a duplicate set of those  
19 records or other documentation shall be retained on the licensed  
20 premises.

21 (c) The records required by this section shall be retained on the  
22 licensed premises for a period of three years from the date of  
23 making.

24 (d) Any records that are maintained electronically shall be  
25 maintained so that the pharmacist-in-charge, the pharmacist on  
26 duty if the pharmacist-in-charge is not on duty, or, in the case of  
27 a veterinary food-animal drug retailer or wholesaler, the  
28 designated representative on duty, shall, at all times during which  
29 the licensed premises are open for business, be able to produce a  
30 hard copy and electronic copy of all records of acquisition or  
31 disposition or other drug or dispensing-related records maintained  
32 electronically.

33 (e) (1) Notwithstanding subdivisions (a), (b), and (c), the  
34 board, may upon written request, grant to a licensee a waiver of the  
35 requirements that the records described in subdivisions (a), (b),  
36 and (c) be kept on the licensed premises.

37 (2) A waiver granted pursuant to this subdivision shall not  
38 affect the board's authority under this section or any other  
39 provision of this chapter.

40 (f) This section shall become operative on January 1, 2006.



1     ~~SEC. 21.—Section 4110 of the Business and Professions Code~~  
2     ~~is amended to read:~~

3     ~~4110.—(a) No person shall conduct a pharmacy in the State of~~  
4     ~~California unless he or she has obtained a license from the board.~~  
5     ~~A license shall be required for each pharmacy owned or operated~~  
6     ~~by a specific person. A separate license shall be required for each~~  
7     ~~of the premises of any person operating a pharmacy in more than~~  
8     ~~one location. The license shall be renewed annually. The board~~  
9     ~~may, by regulation, determine the circumstances under which a~~  
10    ~~license may be transferred.~~

11    ~~(b) The board may, at its discretion, issue a temporary permit,~~  
12    ~~when the ownership of a pharmacy is transferred from one person~~  
13    ~~to another, upon the conditions and for any periods of time as the~~  
14    ~~board determines to be in the public interest. A temporary permit~~  
15    ~~fee shall be established by the board at an amount not to exceed the~~  
16    ~~annual fee for renewal of a permit to conduct a pharmacy. When~~  
17    ~~needed to protect public safety, a temporary permit may be issued~~  
18    ~~for a period not to exceed 180 days, and may be issued subject to~~  
19    ~~terms and conditions the board deems necessary. If the board~~  
20    ~~determines a temporary permit was issued by mistake or denies the~~  
21    ~~application for a permanent license or registration, the temporary~~  
22    ~~license or registration shall terminate upon either personal service~~  
23    ~~of the notice of termination upon the permitholder or service by~~  
24    ~~certified mail, return receipt requested, at the permitholder's~~  
25    ~~address of record with the board, whichever comes first. Neither~~  
26    ~~for purposes of retaining a temporary permit nor for purposes of~~  
27    ~~any disciplinary or license denial proceeding before the board shall~~  
28    ~~the temporary permitholder be deemed to have a vested property~~  
29    ~~right or interest in the permit.~~

30    ~~(c) This section shall become inoperative and is repealed on~~  
31    ~~January 1, 2006, unless a later enacted statute, that becomes~~  
32    ~~operative on or before January 1, 2006, amends or repeals that~~  
33    ~~date.~~

34    ~~SEC. 22.—Section 4110 is added to the Business and~~  
35    ~~Professions Code, to read:~~

36    ~~4110.—(a) No person shall conduct a pharmacy in the State of~~  
37    ~~California unless he or she has obtained a license from the board.~~  
38    ~~A license shall be required for each pharmacy owned or operated~~  
39    ~~by a specific person. A separate license shall be required for each~~  
40    ~~of the premises of any person operating a pharmacy in more than~~

~~one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred.~~

~~(b) The board may, at its discretion, issue a temporary license, when the ownership of a pharmacy is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary license fee shall be established by the board at an amount not to exceed the annual fee for renewal of a license to conduct a pharmacy. When needed to protect public safety, a temporary license may be issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary license was issued by mistake or denies the application for a permanent license or registration, the temporary license or registration shall terminate upon either personal service of the notice of termination upon the licensee or service by certified mail, return receipt requested, at the licensee's address of record with the board, whichever comes first. Neither for purposes of retaining a temporary license nor for purposes of any disciplinary or license denial proceeding before the board shall the temporary licensee be deemed to have a vested property right or interest in the license.~~

~~(c) An applicant for either the issuance or renewal of a pharmacy license that meets the definition of a contracting pharmacy in Section 4021.5 shall notify the board on a form approved by the board.~~

~~(d) This section shall become operative on January 1, 2006.~~

SEC. 23. Section 4126.5 is added to the Business and Professions Code, to read:

4126.5. (a) A pharmacy may furnish dangerous drugs only to the following:

(1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired.

(2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

(3) A licensed wholesaler acting as a reverse distributor.

(4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to

1 this paragraph may only furnish a quantity sufficient to alleviate  
2 the temporary shortage.

3 (5) A patient or to another pharmacy pursuant to a prescription  
4 or as otherwise authorized by law.

5 (6) A health care provider that is not a pharmacy but that is  
6 authorized to purchase dangerous drugs.

7 (7) To another pharmacy under common control.

8 (b) Notwithstanding any other provision of law, a violation of  
9 ~~this section by either a closed pharmacy or a person engaged in a~~  
10 ~~prohibited transaction with a closed pharmacy may subject the~~  
11 ~~persons who committed the violation to a fine not to exceed the~~  
12 ~~amount specified in Section 125.9 for each occurrence pursuant to~~  
13 ~~a citation issued by the board.~~

14 ~~(c) For notifications made on and after January 1, 2005, the~~  
15 ~~Franchise Tax Board, upon notification by the board of a final~~  
16 ~~judgment in an action brought under this section, shall subtract the~~  
17 ~~amount of the fine from any tax refunds or lottery winnings due~~  
18 ~~to the person who is a defendant in the action using the offset~~  
19 ~~authority under Section 12419.5 of the Government Code, as~~  
20 ~~delegated by the Controller, and the processes as established by the~~  
21 ~~Franchise Tax Board for this purpose. That amount shall be~~  
22 ~~forwarded to the board for deposit in the Pharmacy Board~~  
23 ~~Contingent Fund. this section by either a pharmacy whose primary~~  
24 ~~or sole business is filling prescriptions for patients of long-term~~  
25 ~~care facilities or a person engaged in a prohibited transaction with~~  
26 ~~a pharmacy whose primary or sole business is filling prescriptions~~  
27 ~~for patients of long-term care facilities may subject the persons~~  
28 ~~who committed the violation to a fine not to exceed the amount~~  
29 ~~specified in Section 125.9 for each occurrence pursuant to a~~  
30 ~~citation issued by the board.~~

31 *(c) Amounts due from any person under this section on or after*  
32 *January 1, 2005, shall be offset as provided under Section 12419.5*  
33 *of the Government Code. Amounts received by the board under this*  
34 *section shall be deposited into the Pharmacy Board Contingent*  
35 *Fund.*

36 (d) For purposes of this section, “common control” means the  
37 power to direct or cause the direction of the management and  
38 policies of another person whether by ownership, by voting rights,  
39 by contract, or by other means.

1     (e) For purposes of subdivision (b) of this section and  
2     subdivision (s) of Section 4301, “long-term care facility” shall  
3     have the same meaning given the term in Section 1418 of the  
4     Health and Safety Code.

5     SEC. 24. Section 4160 of the Business and Professions Code  
6     is amended to read:

7     4160. (a) A person may not act as a wholesaler of any  
8     dangerous drug or dangerous device unless he or she has obtained  
9     a license from the board.

10    (b) Upon approval by the board and the payment of the required  
11    fee, the board shall issue a license to the applicant.

12    (c) A separate license shall be required for each place of  
13    business owned or operated by a wholesaler. Each license shall be  
14    renewed annually and shall not be transferable.

15    (d) The board shall not issue or renew a wholesaler license until  
16    the wholesaler designates an exemptee-in-charge and notifies the  
17    board in writing of the identity and license number of that  
18    exemptee-in-charge. The exemptee-in-charge shall be responsible  
19    for the wholesaler’s compliance with state and federal laws  
20    governing wholesalers. A wholesaler shall designate, and notify  
21    the board of, a new exemptee-in-charge within 30 days of the date  
22    that the prior exemptee-in-charge ceases to be the  
23    exemptee-in-charge. A pharmacist may be designated as the  
24    exemptee-in-charge.

25    (e) For purposes of this section, “exemptee-in-charge” means  
26    a person granted a certificate of exemption pursuant to Section  
27    4053, or a registered pharmacist, who is the supervisor or manager  
28    of the facility.

29    (f) A drug manufacturer licensed by the Food and Drug  
30    Administration or pursuant to Section 111615 of the Health and  
31    Safety Code that only ships dangerous drugs or dangerous devices  
32    of its own manufacture is exempt from this section.

33    (g) This section shall become inoperative and is repealed on  
34    January 1, 2006, unless a later enacted statute, that becomes  
35    operative on or before January 1, 2006, amends or repeals that  
36    date.

37    SEC. 25. Section 4160 is added to the Business and  
38    Professions Code, to read:

1 4160. (a) A person may not act as a wholesaler of any  
2 dangerous drug or dangerous device unless he or she has obtained  
3 a license from the board.

4 (b) Upon approval by the board and the payment of the required  
5 fee, the board shall issue a license to the applicant.

6 (c) A separate license shall be required for each place of  
7 business owned or operated by a wholesaler. Each license shall be  
8 renewed annually and shall not be transferable.

9 (d) The board shall not issue or renew a wholesaler license until  
10 the wholesaler identifies a designated representative-in-charge  
11 and notifies the board in writing of the identity and license number  
12 of that designated representative. The designated  
13 representative-in-charge shall be responsible for the wholesaler's  
14 compliance with state and federal laws governing wholesalers. A  
15 wholesaler shall identify and notify the board of a new designated  
16 representative-in-charge within 30 days of the date that the prior  
17 designated representative-in-charge ceases to be the designated  
18 representative-in-charge. A pharmacist may be identified as the  
19 designated representative-in-charge.

20 (e) A drug manufacturer licensed by the Food and Drug  
21 Administration or licensed pursuant to Section 111615 of the  
22 Health and Safety Code that only distributes dangerous drugs and  
23 dangerous devices of its own manufacture is exempt from this  
24 section and Section 4161.

25 (f) The board may issue a temporary license, upon conditions  
26 and for periods of time as the board determines to be in the public  
27 interest. A temporary license fee shall be fixed by the board at an  
28 amount not to exceed the annual fee for renewal of a license to  
29 conduct business as a wholesaler.

30 (g) This section shall become operative on January 1, 2006.

31 ~~SEC. 26. Section 4161 of the Business and Professions Code~~  
32 ~~is repealed.~~

33 ~~SEC. 27. Section 4161 is added to the Business and~~  
34 ~~Professions Code, to read:~~

35 ~~4161. (a) A person located outside this state that ships, mails,~~  
36 ~~or delivers dangerous drugs or dangerous devices into this state at~~  
37 ~~wholesale shall be considered an out-of-state distributor.~~

38 ~~(b) An out-of-state distributor shall be licensed by the board~~  
39 ~~prior to shipping, mailing, or delivering dangerous drugs or~~  
40 ~~dangerous devices to a site located in this state.~~

1 ~~(c) A separate license shall be required for each place of~~  
2 ~~business owned or operated by an out-of-state distributor from or~~  
3 ~~through which dangerous drugs or dangerous devices are shipped,~~  
4 ~~mailed, or delivered to a site located in this state. A license shall~~  
5 ~~be renewed annually and shall not be transferable.~~

6 ~~(d) The following information shall be reported, in writing, to~~  
7 ~~the board at the time of initial application for licensure by a~~  
8 ~~nonresident wholesaler, on renewal of an out-of-state distributor~~  
9 ~~license, or within 30 days of a change in the following information:~~

10 ~~(1) Its agent for service of process in this state.~~

11 ~~(2) Its principal corporate officers, as specified by the board, if~~  
12 ~~any.~~

13 ~~(3) Its general partners, as specified by the board, if any.~~

14 ~~(4) Its owners, if the applicant is not a corporation or~~  
15 ~~partnership.~~

16 ~~(e) A report containing the information in subdivision (d) shall~~  
17 ~~be made within 30 days of any change of ownership, office,~~  
18 ~~corporate officer, or partner.~~

19 ~~(f) An out-of-state distributor shall comply with all directions~~  
20 ~~and requests for information from the regulatory or licensing~~  
21 ~~agency of the state in which it is licensed, as well as with all~~  
22 ~~requests for information made by the board.~~

23 ~~(g) An out-of-state distributor wholesaler shall maintain~~  
24 ~~records of dangerous drugs and dangerous devices sold, traded, or~~  
25 ~~transferred to persons in this state, so that the records are in a~~  
26 ~~readily retrievable form.~~

27 ~~(h) An out-of-state distributor shall at all times maintain a~~  
28 ~~valid, unexpired license, permit, or registration to conduct the~~  
29 ~~business of the wholesaler in compliance with the laws of the state~~  
30 ~~in which it is a resident. An application for an out-of-state~~  
31 ~~distributor license in this state shall include a license verification~~  
32 ~~from the licensing authority in the applicant's state of residence.~~

33 ~~(i) The board may not issue or renew an out-of-state distributor~~  
34 ~~license until the out-of-state distributor identifies an~~  
35 ~~exemptee in charge and notifies the board in writing of the~~  
36 ~~identity and license number of the exemptee in charge.~~

37 ~~(j) The exemptee in charge shall be responsible for the~~  
38 ~~nonresident wholesaler's compliance with state and federal laws~~  
39 ~~governing wholesalers. A nonresident wholesaler shall identify~~  
40 ~~and notify the board of a new exemptee in charge within 30 days~~

1 of the date that the prior exemptee-in-charge ceases to be the  
2 exemptee-in-charge.

3 (k) The board may issue a temporary license, upon conditions  
4 and for periods of time as the board determines to be in the public  
5 interest. A temporary license fee shall be fixed by the board at an  
6 amount not to exceed the annual fee for renewal of a license to  
7 conduct business as an out-of-state distributor.

8 (l) The license fee shall be the fee specified in subdivision (f)  
9 of Section 4400.

10 (m) This section shall become inoperative and be repealed on  
11 January 1, 2006, unless a later enacted statute, that becomes  
12 operative on or before December 31, 2006, amends or repeals that  
13 date.

14 SEC. 28. Section 4161 is added to the Business and  
15 Professions Code, to read:

16 4161. (a) A person located outside this state that ships, mails,  
17 or delivers dangerous drugs or dangerous devices into this state at  
18 wholesale shall be considered a nonresident wholesaler.

19 (b) A nonresident wholesaler shall be licensed by the board  
20 prior to shipping, mailing, or delivering dangerous drugs or  
21 dangerous devices to a site located in this state.

22 (c) A separate license shall be required for each place of  
23 business owned or operated by a nonresident wholesaler from or  
24 through which dangerous drugs or dangerous devices are shipped,  
25 mailed, or delivered to a site located in this state. A license shall  
26 be renewed annually and shall not be transferable.

27 (d) The following information shall be reported, in writing, to  
28 the board at the time of initial application for licensure by a  
29 nonresident wholesaler, on renewal of a nonresident wholesaler  
30 license, or within 30 days of a change in the following information:

31 (1) Its agent for service of process in this state.

32 (2) Its principal corporate officers, as specified by the board, if  
33 any.

34 (3) Its general partners, as specified by the board, if any.

35 (4) Its owners, if the applicant is not a corporation or  
36 partnership.

37 (e) A report containing the information in subdivision (d) shall  
38 be made within 30 days of any change of ownership, office,  
39 corporate officer, or partner.



1 ~~(f) A nonresident wholesaler shall comply with all directions~~  
2 ~~and requests for information from the regulatory or licensing~~  
3 ~~agency of the state in which it is licensed, as well as with all~~  
4 ~~requests for information made by the board.~~

5 ~~(g) A nonresident wholesaler shall maintain records of~~  
6 ~~dangerous drugs and dangerous devices sold, traded, or transferred~~  
7 ~~to persons in this state, so that the records are in a readily~~  
8 ~~retrievable form.~~

9 ~~(h) A nonresident wholesaler shall at all times maintain a valid,~~  
10 ~~unexpired license, permit, or registration to conduct the business~~  
11 ~~of the wholesaler in compliance with the laws of the state in which~~  
12 ~~it is a resident. An application for a nonresident wholesaler license~~  
13 ~~in this state shall include a license verification from the licensing~~  
14 ~~authority in the applicant's state of residence.~~

15 ~~(i) The board may not issue or renew a nonresident wholesaler~~  
16 ~~license until the nonresident wholesaler identifies a designated~~  
17 ~~representative in charge and notifies the board in writing of the~~  
18 ~~identity and license number of the designated~~  
19 ~~representative in charge.~~

20 ~~(j) The designated representative in charge shall be~~  
21 ~~responsible for the nonresident wholesaler's compliance with state~~  
22 ~~and federal laws governing wholesalers. A nonresident wholesaler~~  
23 ~~shall identify and notify the board of a new designated~~  
24 ~~representative in charge within 30 days of the date that the prior~~  
25 ~~designated representative in charge ceases to be the designated~~  
26 ~~representative in charge.~~

27 ~~(k) The board may issue a temporary license, upon conditions~~  
28 ~~and for periods of time as the board determines to be in the public~~  
29 ~~interest. A temporary license fee shall be fixed by the board at an~~  
30 ~~amount not to exceed the annual fee for renewal of a license to~~  
31 ~~conduct business as a nonresident wholesaler.~~

32 ~~(l) The registration fee shall be the fee specified in subdivision~~  
33 ~~(f) of Section 4400.~~

34 ~~(m) This section shall become operative on January 1, 2006.~~  
35 SEC. 29. Section 4162 of the Business and Professions Code  
36 is repealed.

37 SEC. 30. Section 4162 is added to the Business and  
38 Professions Code, to read:

39 4162. (a) (1) An applicant for the issuance or renewal of a  
40 wholesaler license shall submit a surety bond of one hundred

1 thousand dollars (\$100,000) or other equivalent means of security  
2 acceptable to the board payable to the Pharmacy Board Contingent  
3 Fund. The purpose of the surety bond is to secure payment of any  
4 administrative fine imposed by the board and any cost recovery  
5 ordered pursuant to Section 125.3.

6 (2) For purposes of paragraph (1), the board may accept a  
7 surety bond less than one hundred thousand dollars (\$100,000) if  
8 the annual gross receipts of the previous tax year for the wholesaler  
9 is ten million dollars (\$10,000,000) or less, in which case the  
10 surety bond shall be twenty-five thousand dollars (\$25,000).

11 (3) For applicants to satisfy paragraph (2), the board may  
12 require a bond up to one hundred thousand dollars (\$100,000) for  
13 any wholesaler who has been disciplined by any state or federal  
14 agency or has been issued an administrative fine pursuant to this  
15 chapter.

16 (b) The board may make a claim against the bond if the licensee  
17 fails to pay a fine within 30 days after the order imposing the fine,  
18 or costs become final.

19 (c) A single surety bond or other equivalent means of security  
20 acceptable to the board shall satisfy the requirement of subdivision  
21 (a) for ~~each licensed site~~ *all licensed sites* under common control  
22 as defined in Section 4126.5.

23 (d) This section shall become operative on January 1, 2006, and  
24 shall remain in effect only until January 1, 2011, and as of that date  
25 is repealed, unless a later enacted statute, that is enacted before  
26 January 1, 2011, deletes or extends those dates.

27 SEC. 31. Section 4163 of the Business and Professions Code  
28 is amended to read:

29 4163. (a) No manufacturer or wholesaler shall furnish any  
30 dangerous drugs or dangerous devices to any unauthorized  
31 persons.

32 (b) No person shall acquire dangerous drugs or dangerous  
33 devices from a person not authorized by law to possess or furnish  
34 those dangerous drugs or dangerous devices.

35 (c) This section shall remain in effect only until January 1,  
36 2007, and as of that date is repealed, unless a later enacted statute,  
37 that is enacted before January 1, 2007, deletes or extends that date.

38 SEC. 32. Section 4163 is added to the Business and  
39 Professions Code, to read:

1 4163. (a) A manufacturer or wholesaler may not furnish a  
2 dangerous drug or dangerous device to an unauthorized person.

3 (b) Dangerous drugs or dangerous devices shall be acquired  
4 from a person authorized by law to possess or furnish dangerous  
5 drugs or dangerous devices.

6 (c) A wholesaler or pharmacy may not sell, trade, or transfer a  
7 dangerous drug at wholesale without providing a pedigree.

8 (d) A wholesaler or pharmacy may not acquire a dangerous  
9 drug without receiving a pedigree.

10 (e) This section shall become operative on January 1, 2007.

11 SEC. 33. Section 4163.5 is added to the Business and  
12 Professions Code, to read:

13 4163.5. The board may extend the date for compliance with  
14 the requirement for a pedigree set forth in Section 4163 until  
15 January 1, 2008, if it determines that manufacturers, ~~wholesalers,~~  
16 ~~or pharmacies or wholesalers~~ require additional time to  
17 implement electronic technologies to track the distribution of  
18 dangerous drugs within the state. A determination by the board to  
19 extend the deadline for providing pedigrees shall not be subject to  
20 the requirements of Chapter 3.5 (commencing with Section  
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

22 *SEC. 33.1. Section 4163.6 is added to the Business and*  
23 *Professions Code, to read:*

24 4163.6. *If the board determines that it is not yet economically*  
25 *and technically feasible for pharmacies to implement electronic*  
26 *technologies to track the distribution of drugs within the state, the*  
27 *board may extend the date for compliance with the requirement for*  
28 *a pedigree for pharmacies set forth in Section 4163 until January*  
29 *1, 2009. A determination by the board to extend the deadline for*  
30 *providing pedigrees shall not be subject to the requirements of*  
31 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
32 *Division 3 of Title 2 of the Government Code.*

33 SEC. 34. Section 4164 of the Business and Professions Code  
34 is amended to read:

35 4164. (a) All wholesalers licensed by the board and all  
36 manufacturers who distribute controlled substances, dangerous  
37 drugs, or dangerous devices within or into this state shall report to  
38 the board all sales of dangerous drugs and controlled substances  
39 that are subject to abuse, as determined by the board.

(b) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative on or before January 1, 2006, amends or repeals that date.

SEC. 35. Section 4164 is added to the Business and Professions Code, to read:

4164. (a) A wholesaler licensed by the board that distributes controlled substances, dangerous drugs, or dangerous devices within or into this state shall report to the board all sales of dangerous drugs and controlled substances that are subject to abuse, as determined by the board.

~~(b) Each wholesaler shall report excessive purchases of dangerous drugs at preferential or contract prices by contracting pharmacies to the board, as designated by the board pursuant to Section 4021.5.~~

~~(c)~~

(b) Each wholesaler shall develop and maintain a system for tracking individual sales of dangerous drugs at preferential or contract prices to ~~contracting pharmacies~~ *pharmacies that primarily or solely dispense prescription drugs to patients of long-term care facilities*. The system shall be capable of identifying purchases ~~by an established customer which~~ *of any dangerous drug at preferential or contract prices by customers that vary significantly from prior ordering patterns for the same customer, including by identifying purchases in the preceding 12 calendar months by that customer or similar customers and identifying current purchases that exceed prior purchases by either that customer or similar customers by a factor of 20 percent. Each wholesaler shall have the tracking system required by this subdivision in place no later than January 1, 2006.*

~~(d)~~

(c) Upon written, oral, or electronic request by the board, a wholesaler shall furnish ~~that data, or any specific portion thereof,~~ *data tracked pursuant to subdivision (b) to the board in written, hardcopy, or electronic form. The board shall specify the dangerous drugs, the customers, or both the dangerous drugs and customers for which data are to be furnished, and the wholesaler shall have 30 calendar days to comply with the request.*

~~(e)~~

1 (d) As used in this section, “preferential or contract prices”  
2 means and refers to purchases by contract of dangerous drugs at  
3 prices below the market wholesale price for those drugs.

4 ~~(f)~~

5 (e) This section shall become operative on January 1, 2006.

6 SEC. 36. Section 4165 of the Business and Professions Code  
7 is amended to read:

8 4165. A wholesaler licensed by the board who sells or  
9 transfers any dangerous drug or dangerous device into this state or  
10 who receives, by sale or otherwise, any dangerous drug or  
11 dangerous device from any person in this state shall, on request,  
12 furnish an authorized officer of the law with all records or other  
13 documentation of that sale or transfer.

14 SEC. 37. Section 4166 of the Business and Professions Code  
15 is amended to read:

16 4166. (a) Any wholesaler that uses the services of any carrier,  
17 including, but not limited to, the United States Postal Service or  
18 any common carrier, shall be liable for the security and integrity  
19 of any dangerous drugs or dangerous devices through that carrier  
20 until the drugs or devices are delivered to the transferee at its  
21 board-licensed premises.

22 (b) Nothing in this section is intended to affect the liability of  
23 a wholesaler or other distributor for dangerous drugs or dangerous  
24 devices after their delivery to the transferee.

25 SEC. 38. Section 4168 is added to the Business and  
26 Professions Code, to read:

27 4168. A county or municipality may not issue a business  
28 license for any establishment that requires a wholesaler license  
29 unless the establishment possesses a current wholesaler license  
30 issued by the board. For purposes of this section, an  
31 “establishment” is the licensee’s physical location in California.

32 SEC. 39. Section 4169 is added to the Business and  
33 Professions Code, to read:

34 4169. (a) A person or entity may not do any of the following:

35 (1) Purchase, trade, sell, or transfer dangerous drugs or  
36 dangerous devices at wholesale with a person or entity that is not  
37 licensed with the board as a wholesaler or pharmacy, in violation  
38 of Section 4163.

39 (2) Purchase, trade, sell, or transfer dangerous drugs that the  
40 person knew or reasonably should have known were adulterated,

1 as set forth in Article 2 (commencing with Section 111250) of  
2 Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

3 (3) Purchase, trade, sell, or transfer dangerous drugs that the  
4 person knew or reasonably should have known were misbranded,  
5 as defined in Section 111335 of the Health and Safety Code.

6 (4) Purchase, trade, sell, or transfer dangerous drugs or  
7 dangerous devices after the beyond use date on the label.

8 (5) Fail to maintain records of the acquisition or disposition of  
9 dangerous drugs or dangerous devices for at least three years.

10 (b) Notwithstanding any other provision of law, a violation of  
11 this section may subject the person or entity that has committed the  
12 violation to a fine not to exceed the amount specified in Section  
13 125.9 for each occurrence, pursuant to a citation issued by the  
14 board.

15 ~~(e) The Franchise Tax Board, upon notification by the board of~~  
16 ~~a final judgment in an action brought under this section, shall~~  
17 ~~subtract the amount of the fine from any tax funds or lottery~~  
18 ~~winnings due to the person who is a defendant in the action using~~  
19 ~~the offset authority under Section 12419.5 of the Government~~  
20 ~~Code, as delegated by the Controller, and the processes established~~  
21 ~~by the Franchise Tax Board for this purpose. That amount shall be~~  
22 ~~forwarded to the board for deposit in the Pharmacy Board~~  
23 ~~Contingent Fund.~~

24 *(c) Amounts due from any person under this section shall be*  
25 *offset as provided under Section 12419.5 of the Government Code.*  
26 *Amounts received by the board under this section shall be*  
27 *deposited into the Pharmacy Board Contingent Fund.*

28 (d) This section shall not apply to a pharmaceutical  
29 manufacturer licensed by the Food and Drug Administration or by  
30 the State Department of Health Services.

31 (e) This section shall remain in effect only until January 1,  
32 2007, and as of that date is repealed, unless a later enacted statute,  
33 that is enacted before January 1, 2007, deletes or extends that date.

34 SEC. 40. Section 4169 is added to the Business and  
35 Professions Code, to read:

36 4169. (a) A person or entity may not do any of the following:

37 (1) Purchase, trade, sell, or transfer dangerous drugs or  
38 dangerous devices at wholesale with a person or entity that is not  
39 licensed with the board as a wholesaler or pharmacy.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.

(b) Notwithstanding any other provision of law, a violation of this section or of subdivision (c) or (d) of Section 4163 may subject the person or entity that has committed the violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence, pursuant to a citation issued by the board.

~~(e) The Franchise Tax Board, upon notification by the board of a final judgment in an action brought under this section, shall subtract the amount of the fine from any tax funds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Pharmacy Board Contingent Fund.~~

*(c) Amounts due from any person under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.*

(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and Drug Administration or by the State Department of Health Services.

(e) This section shall become operative on January 1, 2007.

SEC. 41. Section 4196 of the Business and Professions Code is amended to read:

4196. (a) No person shall conduct a veterinary food-animal drug retailer in the State of California unless he or she has obtained a license from the board. A license shall be required for each veterinary food-animal drug retailer owned or operated by a specific person. A separate license shall be required for each of the



1 premises of any person operating a veterinary food-animal drug  
2 retailer in more than one location. The license shall be renewed  
3 annually and shall not be transferable.

4 (b) The board may issue a temporary license, upon conditions  
5 and for periods of time as the board determines to be in the public  
6 interest. A temporary license fee shall be fixed by the board at an  
7 amount not to exceed the annual fee for renewal of a license to  
8 conduct a veterinary food-animal drug retailer.

9 (c) No person other than a pharmacist, an intern pharmacist, an  
10 exempt person, an authorized officer of the law, or a person  
11 authorized to prescribe, shall be permitted in that area, place, or  
12 premises described in the permit issued by the board pursuant to  
13 Section 4041, wherein veterinary food-animal drugs are stored,  
14 possessed, or repacked. A pharmacist or exemptee shall be  
15 responsible for any individual who enters the veterinary  
16 food-animal drug retailer for the purpose of performing clerical,  
17 inventory control, housekeeping, delivery, maintenance, or  
18 similar functions relating to the veterinary food-animal drug  
19 retailer.

20 (d) The board shall not issue or renew a veterinary food-animal  
21 retailer license until the veterinary food-animal drug retailer  
22 designates an exemptee-in-charge and notifies the board in writing  
23 of the identity and license number of that exemptee. The  
24 exemptee-in-charge shall be responsible for the veterinary  
25 food-animal drug retailer's compliance with state and federal laws  
26 governing veterinary food-animal drug retailers. Each veterinary  
27 food-animal drug retailer shall designate, and notify the board of,  
28 a new exemptee-in-charge within 30 days of the date that the prior  
29 exemptee-in-charge ceases to be the exemptee-in-charge. A  
30 pharmacist may be designated as the exemptee-in-charge.

31 (e) For purposes of this section, "exemptee-in-charge" means  
32 a person granted a certificate of exemption pursuant to Section  
33 4053, or a registered pharmacist, who is the supervisor or manager  
34 of the facility.

35 (f) This section shall become inoperative and is repealed on  
36 January 1, 2006, unless a later enacted statute, that becomes  
37 operative on or before January 1, 2006, amends or repeals that  
38 date.

39 SEC. 42. Section 4196 is added to the Business and  
40 Professions Code, to read:

4196. (a) No person shall conduct a veterinary food-animal drug retailer in the State of California unless he or she has obtained a license from the board. A license shall be required for each veterinary food-animal drug retailer owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a veterinary food-animal drug retailer in more than one location. The license shall be renewed annually and shall not be transferable.

(b) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a license to conduct a veterinary food-animal drug retailer.

(c) No person other than a pharmacist, an intern pharmacist, a designated representative, an authorized officer of the law, or a person authorized to prescribe, shall be permitted in that area, place, or premises described in the permit issued by the board pursuant to Section 4041, wherein veterinary food-animal drugs are stored, possessed, or repacked. A pharmacist or designated representative shall be responsible for any individual who enters the veterinary food-animal drug retailer for the purpose of performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the veterinary food-animal drug retailer.

(d) The board shall not issue or renew a veterinary food-animal retailer license until the veterinary food-animal drug retailer identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of that designated representative. The designated representative-in-charge shall be responsible for the veterinary food-animal drug retailer's compliance with state and federal laws governing veterinary food-animal drug retailers. Each veterinary food-animal drug retailer shall identify, and notify the board of, a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be the designated representative-in-charge. A pharmacist may be identified as the designated representative-in-charge.

(e) For purposes of this section, designated representative-in-charge means a person granted a designated

1 representative license pursuant to Section 4053, or a registered  
2 pharmacist, who is the supervisor or manager of the facility.

3 (f) This section shall become operative on January 1, 2006.

4 SEC. 43. Section 4301 of the Business and Professions Code  
5 is amended to read:

6 4301. The board shall take action against any holder of a  
7 license who is guilty of unprofessional conduct or whose license  
8 has been procured by fraud or misrepresentation or issued by  
9 mistake. Unprofessional conduct shall include, but is not limited  
10 to, any of the following:

11 (a) Gross immorality.

12 (b) Incompetence.

13 (c) Gross negligence.

14 (d) The clearly excessive furnishing of controlled substances in  
15 violation of subdivision (a) of Section 11153 of the Health and  
16 Safety Code.

17 (e) The clearly excessive furnishing of controlled substances in  
18 violation of subdivision (a) of Section 11153.5 of the Health and  
19 Safety Code. Factors to be considered in determining whether the  
20 furnishing of controlled substances is clearly excessive shall  
21 include, but not be limited to, the amount of controlled substances  
22 furnished, the previous ordering pattern of the customer (including  
23 size and frequency of orders), the type and size of the customer,  
24 and where and to whom the customer distributes its product.

25 (f) The commission of any act involving moral turpitude,  
26 dishonesty, fraud, deceit, or corruption, whether the act is  
27 committed in the course of relations as a licensee or otherwise, and  
28 whether the act is a felony or misdemeanor or not.

29 (g) Knowingly making or signing any certificate or other  
30 document that falsely represents the existence or nonexistence of  
31 a state of facts.

32 (h) The administering to oneself, of any controlled substance,  
33 or the use of any dangerous drug or of alcoholic beverages to the  
34 extent or in a manner as to be dangerous or injurious to oneself, to  
35 a person holding a license under this chapter, or to any other person  
36 or to the public, or to the extent that the use impairs the ability of  
37 the person to conduct with safety to the public the practice  
38 authorized by the license.

39 (i) Except as otherwise authorized by law, knowingly selling,  
40 furnishing, giving away, or administering or offering to sell,

1 furnish, give away, or administer any controlled substance to an  
2 addict.

3 (j) The violation of any of the statutes of this state or of the  
4 United States regulating controlled substances and dangerous  
5 drugs.

6 (k) The conviction of more than one misdemeanor or any  
7 felony involving the use, consumption, or self-administration of  
8 any dangerous drug or alcoholic beverage, or any combination of  
9 those substances.

10 (l) The conviction of a crime substantially related to the  
11 qualifications, functions, and duties of a licensee under this  
12 chapter. The record of conviction of a violation of Chapter 13  
13 (commencing with Section 801) of Title 21 of the United States  
14 Code regulating controlled substances or of a violation of the  
15 statutes of this state regulating controlled substances or dangerous  
16 drugs shall be conclusive evidence of unprofessional conduct. In  
17 all other cases, the record of conviction shall be conclusive  
18 evidence only of the fact that the conviction occurred. The board  
19 may inquire into the circumstances surrounding the commission  
20 of the crime, in order to fix the degree of discipline or, in the case  
21 of a conviction not involving controlled substances or dangerous  
22 drugs, to determine if the conviction is of an offense substantially  
23 related to the qualifications, functions, and duties of a licensee  
24 under this chapter. A plea or verdict of guilty or a conviction  
25 following a plea of nolo contendere is deemed to be a conviction  
26 within the meaning of this provision. The board may take action  
27 when the time for appeal has elapsed, or the judgment of  
28 conviction has been affirmed on appeal or when an order granting  
29 probation is made suspending the imposition of sentence,  
30 irrespective of a subsequent order under Section 1203.4 of the  
31 Penal Code allowing the person to withdraw his or her plea of  
32 guilty and to enter a plea of not guilty, or setting aside the verdict  
33 of guilty, or dismissing the accusation, information, or indictment.

34 (m) The cash compromise of a charge of violation of Chapter  
35 13 (commencing with Section 801) of Title 21 of the United States  
36 Code regulating controlled substances or of Chapter 7  
37 (commencing with Section 14000) of Part 3 of Division 9 of the  
38 Welfare and Institutions Code relating to the Medi-Cal program.  
39 The record of the compromise is conclusive evidence of  
40 unprofessional conduct.

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

(p) Actions or conduct that would have warranted denial of a license.

(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a) of Section 256b of Title 42 of the United States Code.

(s) This section shall become inoperative and is repealed on January 1, 2006, unless a later enacted statute, that becomes operative on or before January 1, 2006, amends or repeals that date.

SEC. 44. Section 4301 is added to the Business and Professions Code, to read:

4301. The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(a) Gross immorality.

(b) Incompetence.

(c) Gross negligence.

(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances

1 furnished, the previous ordering pattern of the customer (including  
2 size and frequency of orders), the type and size of the customer,  
3 and where and to whom the customer distributes its product.

4 (f) The commission of any act involving moral turpitude,  
5 dishonesty, fraud, deceit, or corruption, whether the act is  
6 committed in the course of relations as a licensee or otherwise, and  
7 whether the act is a felony or misdemeanor or not.

8 (g) Knowingly making or signing any certificate or other  
9 document that falsely represents the existence or nonexistence of  
10 a state of facts.

11 (h) The administering to oneself, of any controlled substance,  
12 or the use of any dangerous drug or of alcoholic beverages to the  
13 extent or in a manner as to be dangerous or injurious to oneself, to  
14 a person holding a license under this chapter, or to any other person  
15 or to the public, or to the extent that the use impairs the ability of  
16 the person to conduct with safety to the public the practice  
17 authorized by the license.

18 (i) Except as otherwise authorized by law, knowingly selling,  
19 furnishing, giving away, or administering or offering to sell,  
20 furnish, give away, or administer any controlled substance to an  
21 addict.

22 (j) The violation of any of the statutes of this state or of the  
23 United States regulating controlled substances and dangerous  
24 drugs.

25 (k) The conviction of more than one misdemeanor or any  
26 felony involving the use, consumption, or self-administration of  
27 any dangerous drug or alcoholic beverage, or any combination of  
28 those substances.

29 (l) The conviction of a crime substantially related to the  
30 qualifications, functions, and duties of a licensee under this  
31 chapter. The record of conviction of a violation of Chapter 13  
32 (commencing with Section 801) of Title 21 of the United States  
33 Code regulating controlled substances or of a violation of the  
34 statutes of this state regulating controlled substances or dangerous  
35 drugs shall be conclusive evidence of unprofessional conduct. In  
36 all other cases, the record of conviction shall be conclusive  
37 evidence only of the fact that the conviction occurred. The board  
38 may inquire into the circumstances surrounding the commission  
39 of the crime, in order to fix the degree of discipline or, in the case  
40 of a conviction not involving controlled substances or dangerous

1 drugs, to determine if the conviction is of an offense substantially  
2 related to the qualifications, functions, and duties of a licensee  
3 under this chapter. A plea or verdict of guilty or a conviction  
4 following a plea of nolo contendere is deemed to be a conviction  
5 within the meaning of this provision. The board may take action  
6 when the time for appeal has elapsed, or the judgment of  
7 conviction has been affirmed on appeal or when an order granting  
8 probation is made suspending the imposition of sentence,  
9 irrespective of a subsequent order under Section 1203.4 of the  
10 Penal Code allowing the person to withdraw his or her plea of  
11 guilty and to enter a plea of not guilty, or setting aside the verdict  
12 of guilty, or dismissing the accusation, information, or indictment.

13 (m) The cash compromise of a charge of violation of Chapter  
14 13 (commencing with Section 801) of Title 21 of the United States  
15 Code regulating controlled substances or of Chapter 7  
16 (commencing with Section 14000) of Part 3 of Division 9 of the  
17 Welfare and Institutions Code relating to the Medi-Cal program.  
18 The record of the compromise is conclusive evidence of  
19 unprofessional conduct.

20 (n) The revocation, suspension, or other discipline by another  
21 state of a license to practice pharmacy, operate a pharmacy, or do  
22 any other act for which a license is required by this chapter.

23 (o) Violating or attempting to violate, directly or indirectly, or  
24 assisting in or abetting the violation of or conspiring to violate any  
25 provision or term of this chapter or of the applicable federal and  
26 state laws and regulations governing pharmacy, including  
27 regulations established by the board.

28 (p) Actions or conduct that would have warranted denial of a  
29 license.

30 (q) Engaging in any conduct that subverts or attempts to  
31 subvert an investigation of the board.

32 (r) The selling, trading, transferring, or furnishing of drugs  
33 obtained pursuant to Section 256b of Title 42 of the United States  
34 Code to any person a licensee knows or reasonably should have  
35 known, not to be a patient of a covered entity, as defined in  
36 paragraph (4) of subsection (a) of Section 256b of Title 42 of the  
37 United States Code.

38 ~~(s) The clearly excessive furnishing of dangerous drugs to a~~  
39 ~~contracting pharmacy by a wholesaler. Factors to be~~





(s) *The clearly excessive furnishing of dangerous drugs by a wholesaler to a pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities. Factors to be considered in determining whether the furnishing of dangerous drugs is clearly excessive shall include, but shall not be limited to, the amount of dangerous drugs furnished to a ~~closed door~~ pharmacy that primarily or solely dispenses prescription drugs to patients of long-term care facilities, the previous ordering pattern of the ~~closed-door~~ pharmacy, and the general patient population to whom the ~~closed-door~~ pharmacy distributes the dangerous drugs. That a wholesaler has established, and employs, a tracking system that complies with the requirements of subdivision (b) of Section 4164 shall be considered in determining whether there has been a violation of this subdivision.* This provision shall not be interpreted to require a wholesaler to obtain personal medical information or be authorized to permit a wholesaler to have access to personal medical information except as otherwise authorized by Section 56 and following of the Civil Code.

(t) This section shall become operative on January 1, 2006.

SEC. 45. Section 4305.5 of the Business and Professions Code is amended to read:

4305.5. (a) Any person who has obtained a license to conduct a wholesaler or veterinary food-animal drug retailer, shall notify the board within 30 days of the termination of employment of any pharmacist or exemptee who takes charge of, or acts as manager of the licensee. Failure to notify the board within the 30-day period shall constitute grounds for disciplinary action.

(b) Any person who has obtained a license to conduct a wholesaler or veterinary food-animal drug retailer, who willfully fails to notify the board of the termination of employment of any pharmacist or exemptee who takes charge of, or acts as manager of the licensee, and who continues to operate the licensee in the absence of a pharmacist or an exemptee approved for that location, shall be subject to summary suspension or revocation of his or her license to conduct a wholesaler or veterinary food-animal drug retailer.

(c) Any pharmacist or exemptee who takes charge of, or acts as manager of a wholesaler or veterinary food-animal drug retailer, who terminates his or her employment at the licensee, shall notify

1 the board within 30 days of the termination of employment.  
2 Failure to notify the board within the 30-day period shall constitute  
3 grounds for disciplinary action.

4 (d) This section shall become inoperative and is repealed on  
5 January 1, 2006, unless a later enacted statute, that becomes  
6 operative on or before January 1, 2006, amends or repeals that  
7 date.

8 SEC. 46. Section 4305.5 is added to the Business and  
9 Professions Code, to read:

10 4305.5. (a) A person who has obtained a license to conduct  
11 a wholesaler or veterinary food-animal drug retailer, shall notify  
12 the board within 30 days of the termination of employment of the  
13 designated representative-in-charge. Failure to notify the board  
14 within the 30-day period shall constitute grounds for disciplinary  
15 action.

16 (b) A person who has obtained a license to conduct a wholesaler  
17 or veterinary food-animal drug retailer, who willfully fails to  
18 notify the board of the termination of employment of the  
19 designated representative-in-charge, and who continues to operate  
20 the licensee in the absence of the designated  
21 representative-in-charge for that location, shall be subject to  
22 summary suspension or revocation of his or her license to conduct  
23 a wholesaler or veterinary food-animal drug retailer.

24 (c) A designated representative-in-charge of a wholesaler or  
25 veterinary food-animal drug retailer, who terminates his or her  
26 employment at the licensee, shall notify the board within 30 days  
27 of the termination of employment. Failure to notify the board  
28 within the 30-day period shall constitute grounds for disciplinary  
29 action.

30 (d) This section shall become operative on January 1, 2006.

31 SEC. 47. Section 4331 of the Business and Professions Code  
32 is amended to read:

33 4331. (a) Any person who is neither a pharmacist nor an  
34 exemptee and who takes charge of a wholesaler or veterinary  
35 food-animal drug retailer or who dispenses a prescription or  
36 furnishes dangerous devices except as otherwise provided in this  
37 chapter is guilty of a misdemeanor.

38 (b) Any person who has obtained a license to conduct a  
39 veterinary food-animal drug retailer and who fails to place in  
40 charge of that veterinary food-animal drug retailer a pharmacist or

1 exemptee, or any person who, by himself or herself, or by any  
2 other person, permits the dispensing of prescriptions, except by a  
3 pharmacist or exemptee, or as otherwise provided in this chapter,  
4 is guilty of a misdemeanor.

5 (c) Any person who has obtained a license to conduct a  
6 wholesaler and who fails to place in charge of that wholesaler a  
7 pharmacist or exemptee, or any person who, by himself or herself,  
8 or by any other person, permits the furnishing of dangerous drugs  
9 or dangerous devices, except by a pharmacist or exemptee, or as  
10 otherwise provided in this chapter, is guilty of a misdemeanor.

11 (d) This section shall become inoperative and is repealed on  
12 January 1, 2006, unless a later enacted statute, that becomes  
13 operative on or before January 1, 2006, amends or repeals that  
14 date.

15 SEC. 48. Section 4331 is added to the Business and  
16 Professions Code, to read:

17 4331. (a) A person who is neither a pharmacist nor a  
18 designated representative and who takes charge of a wholesaler or  
19 veterinary food-animal drug retailer or who dispenses a  
20 prescription or furnishes dangerous devices except as otherwise  
21 provided in this chapter is guilty of a misdemeanor.

22 (b) A person who has obtained a license to conduct a veterinary  
23 food-animal drug retailer and who fails to place in charge of that  
24 veterinary food-animal drug retailer a pharmacist or designated  
25 representative, or any person who, by himself or herself, or by any  
26 other person, permits the dispensing of prescriptions, except by a  
27 pharmacist or designated representative, or as otherwise provided  
28 in this chapter, is guilty of a misdemeanor.

29 (c) A person who has obtained a license to conduct a wholesaler  
30 and who fails to place in charge of that wholesaler a pharmacist or  
31 designated representative, or any person who, by himself or  
32 herself, or by any other person, permits the furnishing of  
33 dangerous drugs or dangerous devices, except by a pharmacist or  
34 designated representative, or as otherwise provided in this chapter,  
35 is guilty of a misdemeanor.

36 (d) This section shall become operative on January 1, 2006.

37 SEC. 49. Section 4400 of the Business and Professions Code  
38 is amended to read:

1 4400. The amount of fees and penalties prescribed by this  
2 chapter, except as otherwise provided, is that fixed by the board  
3 according to the following schedule:

4 (a) The fee for a nongovernmental pharmacy license shall be  
5 three hundred forty dollars (\$340) and may be increased to four  
6 hundred dollars (\$400).

7 (b) The fee for a nongovernmental pharmacy or medical device  
8 retailer annual renewal shall be one hundred seventy-five dollars  
9 (\$175) and may be increased to two hundred fifty dollars (\$250).

10 (c) The fee for the pharmacist application and examination  
11 shall be one hundred fifty-five dollars (\$155) and may be increased  
12 to one hundred eighty-five dollars (\$185).

13 (d) The fee for regrading an examination shall be seventy-five  
14 dollars (\$75) and may be increased to eighty-five dollars (\$85). If  
15 an error in grading is found and the applicant passes the  
16 examination, the regrading fee shall be refunded.

17 (e) The fee for a pharmacist license and biennial renewal shall  
18 be one hundred fifteen dollars (\$115) and may be increased to one  
19 hundred fifty dollars (\$150).

20 (f) The fee for a wholesaler license and annual renewal shall be  
21 five hundred fifty dollars (\$550) and may be increased to six  
22 hundred dollars (\$600).

23 (g) The fee for a hypodermic license and renewal shall be  
24 ninety dollars (\$90) and may be increased to one hundred  
25 twenty-five dollars (\$125).

26 (h) The fee for application and investigation for an exemptee  
27 license under Section 4053 shall be seventy-five dollars (\$75) and  
28 may be increased to one hundred dollars (\$100), except for a  
29 veterinary food-animal drug retailer exemptee, for whom the fee  
30 shall be one hundred dollars (\$100).

31 (i) The fee for an exemptee license and annual renewal under  
32 Section 4053 shall be one hundred ten dollars (\$110) and may be  
33 increased to one hundred fifty dollars (\$150), except that the fee  
34 for the issuance of a veterinary food-animal drug retailer exemptee  
35 license shall be one hundred fifty dollars (\$150), for renewal one  
36 hundred ten dollars (\$110), which may be increased to one  
37 hundred fifty dollars (\$150), and for filing a late renewal fifty-five  
38 dollars (\$55).

39 (j) The fee for an out-of-state drug distributor's license and  
40 annual renewal issued pursuant to Section 4120 shall be five

1 hundred fifty dollars (\$550) and may be increased to six hundred  
2 dollars (\$600).

3 (k) The fee for registration and annual renewal of providers of  
4 continuing education shall be one hundred dollars (\$100) and may  
5 be increased to one hundred thirty dollars (\$130).

6 (l) The fee for evaluation of continuing education courses for  
7 accreditation shall be set by the board at an amount not to exceed  
8 forty dollars (\$40) per course hour.

9 (m) The fee for evaluation of applications submitted by  
10 graduates of foreign colleges of pharmacy or colleges of pharmacy  
11 not recognized by the board shall be one hundred sixty-five dollars  
12 (\$165) and may be increased to one hundred seventy-five dollars  
13 (\$175).

14 (n) The fee for an intern license or extension shall be sixty-five  
15 dollars (\$65) and may be increased to seventy-five dollars (\$75).  
16 The fee for transfer of intern hours or verification of licensure to  
17 another state shall be fixed by the board not to exceed twenty  
18 dollars (\$20).

19 (o) The board may, by regulation, provide for the waiver or  
20 refund of the additional fee for the issuance of a certificate where  
21 the certificate is issued less than 45 days before the next  
22 succeeding regular renewal date.

23 (p) The fee for the reissuance of any license, or renewal thereof,  
24 that has been lost or destroyed or reissued due to a name change  
25 is thirty dollars (\$30).

26 (q) The fee for the reissuance of any license, or renewal thereof,  
27 that must be reissued because of a change in the information, is  
28 sixty dollars (\$60) and may be increased to one hundred dollars  
29 (\$100).

30 (r) It is the intent of the Legislature that, in setting fees pursuant  
31 to this section, the board shall seek to maintain a reserve in the  
32 Pharmacy Board Contingent Fund equal to approximately one  
33 year's operating expenditures.

34 (s) The fee for any applicant for a clinic permit is three hundred  
35 forty dollars (\$340) and may be increased to four hundred dollars  
36 (\$400) for each permit. The annual fee for renewal of the permit  
37 is one hundred seventy-five dollars (\$175) and may be increased  
38 to two hundred fifty dollars (\$250) for each permit.

39 (t) The board shall charge a fee for the processing and issuance  
40 of a registration to a pharmacy technician and a separate fee for the

1 biennial renewal of the registration. The registration fee shall be  
2 twenty-five dollars (\$25) and may be increased to fifty dollars  
3 (\$50). The biennial renewal fee shall be twenty-five dollars (\$25)  
4 and may be increased to fifty dollars (\$50).

5 (u) The fee for a veterinary food-animal drug retailer license  
6 shall be four hundred dollars (\$400). The annual renewal fee for  
7 a veterinary food-animal drug retailer shall be two hundred fifty  
8 dollars (\$250).

9 (v) The fee for issuance of a retired license pursuant to Section  
10 4200.5 shall be thirty dollars (\$30).

11 (w) This section shall become inoperative and is repealed on  
12 January 1, 2006, unless a later enacted statute, that becomes  
13 operative on or before January 1, 2006, amends or repeals that  
14 date.

15 SEC. 50. Section 4400 is added to the Business and  
16 Professions Code, to read:

17 4400. The amount of fees and penalties prescribed by this  
18 chapter, except as otherwise provided is that fixed by the board  
19 according to the following schedule:

20 (a) The fee for a nongovernmental pharmacy license shall be  
21 three hundred forty dollars (\$340) and may be increased to four  
22 hundred dollars (\$400).

23 (b) The fee for a nongovernmental pharmacy annual renewal  
24 shall be one hundred seventy-five dollars (\$175) and may be  
25 increased to two hundred fifty dollars (\$250).

26 (c) The fee for the pharmacist application and examination  
27 shall be one hundred fifty-five dollars (\$155) and may be increased  
28 to one hundred eighty-five dollars (\$185).

29 (d) The fee for regrading an examination shall be seventy-five  
30 dollars (\$75) and may be increased to eighty-five dollars (\$85). If  
31 an error in grading is found and the applicant passes the  
32 examination, the regrading fee shall be refunded.

33 (e) The fee for a pharmacist license and biennial renewal shall  
34 be one hundred fifteen dollars (\$115) and may be increased to one  
35 hundred fifty dollars (\$150).

36 (f) The fee for a wholesaler license and annual renewal shall be  
37 five hundred fifty dollars (\$550) and may be increased to six  
38 hundred dollars (\$600).



1 (g) The fee for a hypodermic license and renewal shall be  
2 ninety dollars (\$90) and may be increased to one hundred  
3 twenty-five dollars (\$125).

4 (h) The fee for application and investigation for a designated  
5 representative license issued pursuant to Section 4053 shall be  
6 seventy-five dollars (\$75) and may be increased to one hundred  
7 dollars (\$100), except for a veterinary food-animal drug retailer  
8 designated representative, for whom the fee shall be one hundred  
9 dollars (\$100).

10 (i) The fee for a designated representative license and annual  
11 renewal under Section 4053 shall be one hundred ten dollars  
12 (\$110) and may be increased to one hundred fifty dollars (\$150),  
13 except that the fee for the issuance of a veterinary food-animal  
14 drug retailer designated representative license shall be one  
15 hundred fifty dollars (\$150), for renewal one hundred ten dollars  
16 (\$110), which may be increased to one hundred fifty dollars  
17 (\$150), and for filing a late renewal fifty-five dollars (\$55).

18 (j) The fee for a nonresident wholesaler's license and annual  
19 renewal issued pursuant to Section 4120 shall be five hundred fifty  
20 dollars (\$550) and may be increased to six hundred dollars (\$600).

21 (k) The fee for registration and annual renewal of providers of  
22 continuing education shall be one hundred dollars (\$100) and may  
23 be increased to one hundred thirty dollars (\$130).

24 (l) The fee for evaluation of continuing education courses for  
25 accreditation shall be set by the board at an amount not to exceed  
26 forty dollars (\$40) per course hour.

27 (m) The fee for evaluation of applications submitted by  
28 graduates of foreign colleges of pharmacy or colleges of pharmacy  
29 not recognized by the board shall be one hundred sixty-five dollars  
30 (\$165) and may be increased to one hundred seventy-five dollars  
31 (\$175).

32 (n) The fee for an intern license or extension shall be sixty-five  
33 dollars (\$65) and may be increased to seventy-five dollars (\$75).  
34 The fee for transfer of intern hours or verification of licensure to  
35 another state shall be fixed by the board not to exceed twenty  
36 dollars (\$20).

37 (o) The board may, by regulation, provide for the waiver or  
38 refund of the additional fee for the issuance of a certificate where  
39 the certificate is issued less than 45 days before the next  
40 succeeding regular renewal date.



1 (p) The fee for the reissuance of any license, or renewal thereof,  
2 that has been lost or destroyed or reissued due to a name change  
3 is thirty dollars (\$30).

4 (q) The fee for the reissuance of any license, or renewal thereof,  
5 that must be reissued because of a change in the information, is  
6 sixty dollars (\$60) and may be increased to one hundred dollars  
7 (\$100).

8 (r) It is the intent of the Legislature that, in setting fees pursuant  
9 to this section, the board shall seek to maintain a reserve in the  
10 Pharmacy Board Contingent Fund equal to approximately one  
11 year's operating expenditures.

12 (s) The fee for any applicant for a clinic permit is three hundred  
13 forty dollars (\$340) and may be increased to four hundred dollars  
14 (\$400) for each permit. The annual fee for renewal of the permit  
15 is one hundred seventy-five dollars (\$175) and may be increased  
16 to two hundred fifty dollars (\$250) for each permit.

17 (t) The board shall charge a fee for the processing and issuance  
18 of a registration to a pharmacy technician and a separate fee for the  
19 biennial renewal of the registration. The registration fee shall be  
20 twenty-five dollars (\$25) and may be increased to fifty dollars  
21 (\$50). The biennial renewal fee shall be twenty-five dollars (\$25)  
22 and may be increased to fifty dollars (\$50).

23 (u) The fee for a veterinary food-animal drug retailer license  
24 shall be four hundred dollars (\$400). The annual renewal fee for  
25 a veterinary food-animal drug retailer shall be two hundred fifty  
26 dollars (\$250).

27 (v) The fee for issuance of a retired license pursuant to Section  
28 4200.5 shall be thirty dollars (\$30).

29 (w) This section shall become operative on January 1, 2006.

30 SEC. 51. *This act shall become operative only if Assembly Bill*  
31 *2682 is also enacted and becomes effective on or before January*  
32 *1, 2005.*

33 SEC. 52. No reimbursement is required by this act pursuant  
34 to Section 6 of Article XIII B of the California Constitution  
35 because the only costs that may be incurred by a local agency or  
36 school district will be incurred because this act creates a new crime  
37 or infraction, eliminates a crime or infraction, or changes the  
38 penalty for a crime or infraction, within the meaning of Section  
39 17556 of the Government Code, or changes the definition of a

1 crime within the meaning of Section 6 of Article XIII B of the  
2 California Constitution.

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